

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS LLC D/B/A	§
BRAZOS LICENSING AND	§ C.A. NO. 6:20-cv-00487-ADA
DEVELOPMENT,	§ C.A. NO. 6:20-cv-00488-ADA
<i>Plaintiff,</i>	§ C.A. NO. 6:20-cv-00489-ADA
v.	§ C.A. NO. 6:20-cv-00490-ADA
ZTE CORPORATION, ZTE (USA) INC.	§ C.A. NO. 6:20-cv-00491-ADA
AND ZTE (TX), INC.,	§ C.A. NO. 6:20-cv-00492-ADA
<i>Defendants.</i>	§ C.A. NO. 6:20-cv-00493-ADA
	§ C.A. NO. 6:20-cv-00494-ADA
	§ C.A. NO. 6:20-cv-00495-ADA
	§ C.A. NO. 6:20-cv-00496-ADA
	§ C.A. NO. 6:20-cv-00497-ADA
	§

DEFENDANTS' SECOND NARROWED CLAIM TERMS AND CONSTRUCTIONS

Pursuant to the Court's First Amended Scheduling Order (Dkt. No. 45)¹ and the Court's February 26, 2021 e-mail order, Defendants ZTE Corporation, ZTE (USA) Inc., and ZTE (TX), Inc. (collectively "ZTE") hereby serves its second narrowed claim terms and claim constructions to WSOU Investments LLC D/B/A Brazos Licensing and Development ("WSOU") as to the Asserted Claims² of U.S. Patent No. 8,451,839 (the "'839 Patent"), U.S. Patent No. 7,489,929 (the "'929 Patent"), U.S. Patent No. 7,487,240 (the "'240 Patent"), U.S. Patent No. 8,179,960 (the "'960 Patent"), U.S. Patent No. 8,730,905 (the "'905 Patent"), U.S. Patent No. 8,147,071 (the "'071 Patent"), U.S. Patent No. 9,294,060 (the "'060 Patent"), U.S. Patent No. 9,185,036 (the "'036 Patent"), U.S. Patent No. 9,258,232 (the "'232 Patent"), U.S. Patent No. 7,742,534 (the "'534 Patent"), and U.S. Patent No. 7,203,505 (the "'505 Patent") (collectively, the "Asserted Patents").

¹ There are 11 pending cases. Citations throughout refer to new WDTX Case Nos. -00487 through -00497, and specific citations reference to the docket for WDTX Case No. -00487.

² The "Asserted Claims" as identified by WSOU in its November 3, 2020 Disclosures of Preliminary Infringement Contentions.

Defendants propose the following narrowed claim term constructions³ for the Asserted Claims of the Asserted Patents. Defendants also incorporate by reference all claim terms / limitations identified in their invalidity contentions as being indefinite under indefinite under 35 U.S.C. § 112 ¶ 2 (*see* Invalidity Contentions, Section IX.B as served on January 6, 2021), and as lacking enablement and written support under indefinite under 35 U.S.C. § 112 ¶ 1 (*see* Invalidity Contentions, Section IX.A as served on January 6, 2021).

Defendants expressly reserve the right to supplement, amend, or otherwise modify their list of terms in any way permitted by the Federal Rules of Civil Procedure and this Court's Local Rules and Patent Rules, or in response to Plaintiff WSOU's identification of terms and elements. Defendants provide this disclosure based upon information reasonably known and available to Defendants at this time. To the extent that WSOU shows good cause and is permitted to amend or supplement its infringement contentions in the future, or otherwise changes or further clarifies the positions it has taken in this case (including to add or to change in any way the claim(s) currently asserted, or to modify its apparent interpretation of the scope of the claim(s)), Defendants reserve the right to respond.

³ Defendants reserve the remaining identified terms and maintain that they are indefinite, lack support, and/or are invalid under 35 U.S.C. §§ 112(a), (b), and (f).

Group 1			
Asserted Claim	Claim Term	Preliminary Proposed Construction	Extrinsic Evidence Support
'839 Claims 1, 3, 6, 8, 11	"route" / "route-related information"	Indefinite under 35 U.S.C. § 112(b).	
'839 Claims 1, 6, 11	"using time"	Claim 6: Indefinite for lack of antecedent basis under 35 U.S.C. § 112(b). Additionally, meaning "lease time"	
'839 Claims 1, 6	"said predefined using time indicates[ing] a [the] using time of said route"	Indefinite under 35 U.S.C. § 112(b).	
'929 Claim 11	"buffering bearer traffic"	During a handoff process, all data from the mobile station is buffered at the mobile station or all data at the network side is buffered at the network side until the handoff process is complete.	
'929 Claim 14	"characteristic"	Indefinite under 35 U.S.C. § 112(b)	
'929 Claim 14	"replacement hysteresis"	Indefinite under 35 U.S.C. § 112(b)	Optimal Timer Settings For The Soft Handover Algorithm in WCDMA Request PDF (researchgate.net)

			3GPP, ETSI TR 125 922 v3.2.0 (2000-06)
'036 Claims 1, 6-10, 12, 17-21, 23, 24	"data flow" / "to enable thereby the control of at least one data flow" / "data flow is controlled" / "a data flow" / "the data flow"	Indefinite under 35 U.S.C. § 112(b)	
'036 Claims 1, 12, 23, 24	"congestion condition to enable thereby the control of at least one data flow in a manner tending to reduce the congestion condition"	Governed by 35 U.S.C. § 112(f) Function: enable thereby the control of at least one data flow in a manner tending to reduce the congestion condition Indefinite under 35 U.S.C. § 112(b) Lacks Written description under 35 U.S.C. § 112(a); Structure: none disclosed	
'036 Claims 1, 12, 23, 24	"congestion condition" / "indication that a congestion condition exists"	Additionally, these terms are indefinite under 35 U.S.C. § 112(b).	
'036 Claims 1, 12, 23, 24	"end-node associated with the congestion condition"	Written description/enablement under 35 U.S.C. § 112(a)	
'534 Claims 1, 6	"means for selecting" / "means for determining"	Governed by 35 U.S.C. § 112(f) Function: selecting a set of sub-carriers from the plurality of sub-carriers on which user data is to be communicated from a transmitter to a receiver / determining quality levels for sub-carriers Indefinite under 35 U.S.C. § 112(b)	None.

		Structure: none disclosed	
'534 Claims 4, 7	"maximal number of sub-carriers"	Indefinite under 35 U.S.C. § 112(b)	
'534 Claims 1, 2, 3, 5, 6, 7, 8, 9, 13, 16, and 17	"quality level" / "as a function of"	One of a signal-to-interference ratio, a bit error rate, or a modulation scheme.	

Group 2

Asserted Claim	Claim Term	Preliminary Proposed Construction	Extrinsic Evidence Support
'240 Claims 1, 6, 13	"verifying connectivity in the network relating to at least Layer-2 and Layer-3 objects"	Indefinite under 35 U.S.C. § 112(b)	
'240 Claims 1, 6, 13	"a given containment hierarchy"	Indefinite under 35 U.S.C. § 112(b)	
'240 Claims 1, 6, 13	"the containment hierarchy affected by the connectivity verification result"	Lack of written description/enablement under 35 U.S.C. § 112(a)	
'240 Claims 1, 6, 10, 13	"user-input specification"	Lack of written description / enablement under 35 U.S.C. § 112(a)	
'071 Claims 1, 9, 13, 14	"movement signalling" / "receiv[ing] movement signalling associated with the movement of the projector" / "corresponding movement signalling"	Indefinite under 35 U.S.C. § 112(b)	
'071 Claims 1, 13, 14	"discriminate" / "discriminate a movement criterion" / "the processor is configured to discriminate a movement criterion"	Indefinite under 35 U.S.C. § 112(b)	

Asserted Claim	Claim Term	Preliminary Proposed Construction	Extrinsic Evidence Support
'071 Claims 1, 13, 14	"provide associated image data signalling to project associated image data"	Indefinite under 35 U.S.C. § 112(b)	
'071 Claims 1, 9, 13, 14	"the processor" / "wherein the processor is configured"	Indefinite under 35 U.S.C. § 112(b)	
'232 Claims 1, 14	"instructions for execution by a traffic flow control system for performing flow control on a flow of data packets for transmission over a link"	Governed by 35 U.S.C. § 112(f) Function: execution by a traffic flow control system for performing flow control on a flow of data packets for transmission over a link Indefinite under 35 U.S.C. § 112(b); Structure: none disclosed. Additionally, "flow control" means "regulate movement of a series of data packets"	Wiley Electrical and Electronics Engineering Dictionary
'232 Claims 1, 14	"transmission over a link"	Indefinite under § 112(b)	
'232 Claims 1, 14	"period of congestion"	Lack of written description under 35 U.S.C. § 112(a)	
'232 Claims 1, 14	"rate limiting"	Lack of written description under 35 U.S.C. § 112(a).	
Group 3			

'960 Claims 1, 2, 3, 9, 10, 15, 16, 17, 23, and 24	“virtual reference”	A group of pixels used as reference material for encoding portions of the video signal, but that does not comprise or represent any portion of the actual video sequence to be displayed.	
'960 Claims 1, 9, 15, 23	“does not represent any portion of any individual frame of the original video signal”	Data generated based on a portion of a video signal but not to be displayed with the video signal.	
'960 Claims 3, 17	“minimize differences”	Indefinite under 35 U.S.C. § 112(b)	
'905 Claims 5, 15	“during a time interval between data transmission intervals during the transmission period”	Indefinite under 35 U.S.C. § 112(b)	
'905 Claims 5, 16	“at least one frequency channel indicator”	Indefinite under 35 U.S.C. § 112(b)	
'905 Claims 9, 21	“causing the transmission of the reservation message on each frequency band separately”	Indefinite under 35 U.S.C. § 112(b)	
'060 Claims 1 and 10	“extracting a feature vector”	Indefinite under 35 U.S.C. § 112(b)	
'060 Claims 1 and 10	“the level value is attenuated”	Indefinite under 35 U.S.C. § 112(b)	
'060 Claims 1 and 10	“spectral shape parameter”	A sub band energy level value or a sub band gain factor based on the sub band energy level value.	
'505 Claims 1, 14, 23	“a formatter to format the received data into at least one SMS (Short Message Service) message”	Governed by 35 U.S.C. § 112(f) Function: formatting the received data into at least one SMS (Short Message Service) message	None.

	“formatting” / “formatter to format”	Indefinite under 35 U.S.C. § 112(b); specification fails to describe it Structure: none disclosed Indefinite under 35 U.S.C. § 112(b) Lack of Written description under 35 U.S.C. § 112(a)	
'505 Claim 14	“data message receiver”	Indefinite under 35 U.S.C. § 112(b) Lack of Written description under 35 U.S.C. § 112(a)	
'505 Claims 1, 14, 23	“SMS (Short Message Service)”	Cellular based messages of limited size consisting of text and numbers.	Wiley-IEEE Hargrave’s communications dictionary (with minor modification)

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Respectfully submitted,

/s/Lionel M. Lavenue

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record, who are deemed to have consented to electronic service, are being served on March 2, 2021 with a copy of this document via email.

/s/Lionel M. Lavenue

Lionel M. Lavenue